

Applicants reserve the right to prosecute the subject matter of the non-elected claims in a divisional application, if such subject matter is not ultimately granted here.

Regarding the traversal, Applicants submit that all of the claimed compounds of formula (Ia) should be examined together. These claimed compounds all share a common structural core, namely formula (Ia). There is nothing in the law that provides that a core group cannot be generic. Clearly, all of the compounds share the structural pattern of formula (Ia). Moreover, this structural pattern is disclosed to be central to the common disclosed utility shared by all of the claimed compounds, for example, as herbicides. In view of the foregoing, Applicants submit that even if, assuming for the sake of argument, the various compounds are patentably distinct as the Examiner alleges, restriction would still be improper because the patentably distinct species form a single inventive concept by virtue of the common structure and common utility. *In re Harnisch*, 206 USPQ 300 (CCPA 1980). Accordingly, the Examiner should examine the entirety of the claimed compounds of formula (Ia).

Also, with respect to the restriction between Groups I and II, Applicants would call the Examiner's attention to the Commissioner's Notice published in the Official Gazette on March 26, 1996, at 1184 OG 86. According to that notice:

“[A]pplicant may be called upon under 35 U.S.C. § 121 to elect claims to either the product or the process. The claims to the non-elected invention will be withdrawn from further consideration. However, in the case of an elected product claim, rejoinder will be permitted when a product claim is found allowable and the

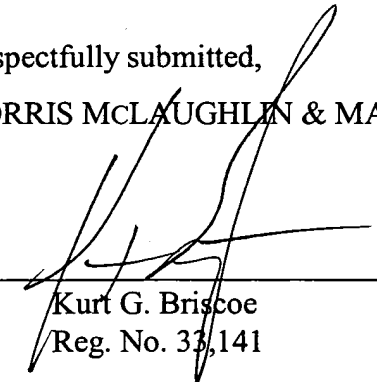
withdrawn process claim depends from and otherwise includes all
the limitations of an allowed product claim."

Applicants presume that the Examiner is proceeding in accordance with this notice, and
that Group II will be rejoined and examined in the event that Group I is found to be allowable. If
not, then Applicants would appreciate an explanation from the Examiner of why this notice is not
applicable.

Early and favorable action is earnestly solicited.

Respectfully submitted,
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Response to Restriction Requirement (4 pages total) is
being facsimile transmitted to the United States Patent and Trademark Office on the date
indicated below:

Date: May 6, 2002

By


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